

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

INSTRUCTURE, INC.,
a Delaware corporation,

Plaintiff/
Counterclaim-Defendant,

v.

CANVAS TECHNOLOGIES, INC.,
a Delaware corporation,

Defendant/
Counterclaim-Plaintiff.

Civil No. 2:21-cv-00454-DAK-CMR

**DECLARATION OF ADAM
GEFKOVICZ IN SUPPORT OF
CANVAS TECHNOLOGIES, INC.’S
RESPONSE TO COURT’S ORDER
TO SHOW CAUSE WHY
DEFENDANT SHOULD NOT BE
HELD IN CONTEMPT OF THE
COURT’S PRELIMINARY
INJUNCTION**

District Judge: Hon. Dale A. Kimball
Magistrate Judge: Hon. Cecelia M. Romero

I, Adam Gefkovicz, declare as follows:

1. I am a Co-Founder and currently serve as Co-Chief Executive Officer of Canvas Technologies, Inc. (“Canvas”), the Defendant/Counterclaim-Plaintiff in the above-captioned matter. I submit this declaration in support of Canvas’s Response to the Court’s Order to Show Cause Why Defendant Should Not Be Held in Contempt of the Court’s Preliminary Injunction to explain Canvas’s substantial efforts, resources expended, and actions taken and planned to be taken to comply with the Court’s Order requiring Canvas to cease all use of the CANVAS mark.

Background

2. Canvas was founded in 2017 under the name Jumpstart Ventures, Inc. (“Jumpstart”) as a recruiting platform created to help companies hire diverse, early-in-career teams.

3. Canvas’s online cloud-based platform permits companies to hire diverse teams from Canvas’s talent pool with insight and transparency into the diversity of applicants in the hiring process and also allows prospective employees to search for employment opportunities.

Canvas's customers are employers seeking to fill job positions and candidates seeking employment. Our customers access our services through Canvas's website at www.canvas.com or through its mobile App, which is available for both Android and iOS (Apple) devices on app stores for the respective devices ("App Stores").

4. At all times since its inception, Canvas has been an online business and interacts with, and delivers its services to, its customers over the internet. As such, our customers locate Canvas by searching for our name "Canvas" in search engines such as Google, going directly to or searching for our website at www.canvas.com, or searching App Stores for the name "Canvas."

5. As a consequence of Canvas's business being exclusively transacted over the internet, using the domain name www.canvas.com and searching for the brand CANVAS are the primary means by which our customers—employment candidates and employers—are able to locate Canvas's services.

6. CANVAS is both our company name and house brand rather than just the name of a discrete product or service of the company.

Canvas's Previous and Recent Rebrand Experience

7. Canvas has recent experience with how long it takes to complete a rebranding of our business on an aggressively short timeframe without interrupting services for employers and job candidates because we recently underwent a rebrand from JUMPSTART to CANVAS in the first half of 2021.

8. We began that rebranding process on or about the beginning of January 2021, which among other things entailed launching a new website and a new mobile App and educating consumers via extensive marketing including new social media pages on Twitter, Instagram, TikTok, and LinkedIn. We were able to launch the new website, new mobile App, and new social

media pages in late May 2021, with the work to troubleshoot and convert remaining parts of our website and mobile App continuing into mid-June 2021. We were advised by our branding consultants at the time that this was an aggressively fast time frame.

9. Also, during that rebrand, we had resources in place that we do not presently have, including a software engineer who was highly specialized and expert in iOS and Android mobile App development and deployment; a large marketing team; and external branding and marketing consultants. None of those aforementioned resources are currently available to us as they were when we rebranded last year.

Efforts to Comply with Court's Order

10. On January 5, 2022, the Court granted Instructure's Motion for a Preliminary Injunction and ordered Canvas to disable our website at www.canvas.com and remove the use of CANVAS from the internet within fifteen days of the Court's Order.

11. Within hours of that Order, we consulted with our counsel and, separately, strategized internally on next steps, including selecting a new company name.

12. On January 6, 2022, one day after the Court issued its Order, we consulted with our counsel regarding the viability of using certain new names and instructed our counsel to conduct trademark clearance searches. The next day, we received advice from counsel with respect to one of the potential options for a new company name.

13. In the days immediately following entry of the Order, we continued to strategize on a company name and were in daily contact with our counsel, who provided advice and ran additional trademark clearance searches. [REDACTED]

[REDACTED]

14. Simultaneously with the process of searching for and selecting a new company name, we also assembled a Canvas team to lead the efforts in creating and executing a plan to comply with the Order. This team consisted of members from our engineering product and design (“EPD”) team and our go-to-market (“GTM”) team.

15. The plan involved two phases in order to optimize efficiency. Phase 1 of the plan focuses on compliance with the PI Order and includes two sub-phases: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Phase 1 reflects our effort to remove all references to CANVAS and replace them with our new company name as quickly as possible.

16. [REDACTED]

[REDACTED]. While Phase 1 prioritizes speed over quality, Phase 2 is the more methodical and intentional rebranding process without the time pressure of the Court’s Order that will allow us to solidify a new brand identity, focusing on all visual aspects and finer strategic details including color schemes, designs, animations, and specific wording for rebranded company materials and messaging. [REDACTED]

[REDACTED]

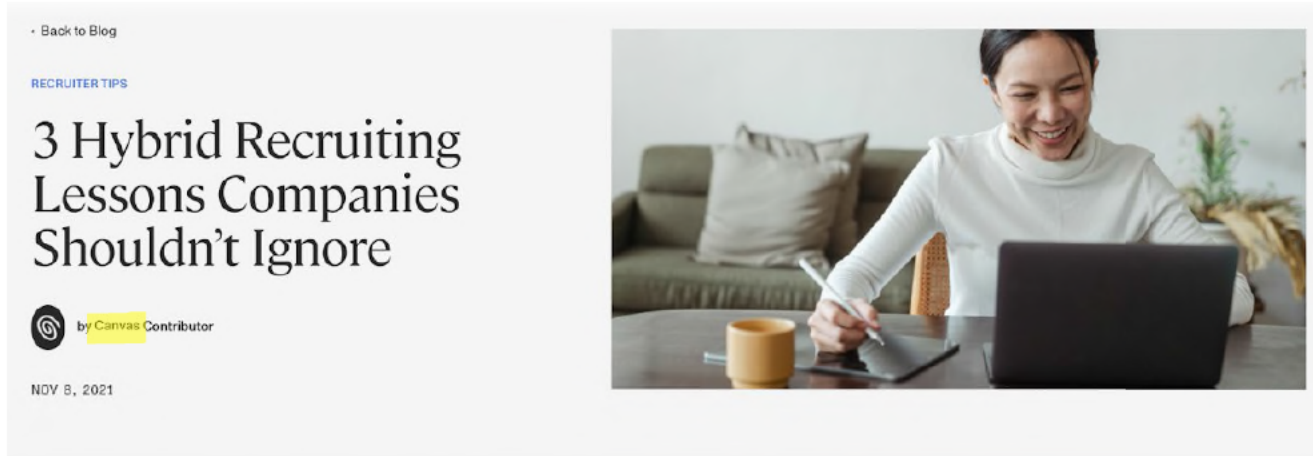
[REDACTED]

[REDACTED]

17. In order to align all team members and their efforts to comply with the Order, we detailed in writing each task necessary for the rebrand, which are organized into three fundamental categories – (i) marketing, (ii) product, and (iii) compliance/legal. Each category requires an

assessment of the following issues: whether or not a task is dependent on the selection of the new name, whether or not the team has everything they need to get started working on the task, and who is responsible for the work. Some of these writings were created as “live links” so that team members could work in them simultaneously and collaboratively while updating the status of tasks and noting progress. For example, the EPD team, specifically the engineering managers, worked in Asana boards (an electronic collaborative work tool) to optimize efficiency. We also created private channels on Slack, an intracompany communications system, in which team members provided daily updates and detailed steps taken to advance the plan.

18. We also identified all content that would need to be rebranded such as all automatic emails, including marketing and operational emails to both candidates and recruiters (e.g., verification emails, reminders, event confirmations, password resets, weekly newsletters, recruiter job created confirmation emails, etc.) and links to blogs, sales material, and podcasts. For some content, our marketing team has already been able to remove references to CANVAS with generic language that is not specific to a new company name. For example, from January 18 through 20, 2022, our marketing team removed all references to CANVAS from 129 blogs, examples of which are reflected in the below screenshots with “Canvas” highlighted for ease of reference. Because there was no quick fix for this process, our marketing team had to manually make each change for the 129 blogs, which took over two full working days.



In this unprecedented time, recruiters have been forced to make changes to their processes that allow them to incorporate online efforts into their [diversity recruiting strategies](#), while still effectively connecting with potential talent. In order to explore how the pandemic has changed the way [early in career](#) recruiters work, [Canvas](#) teamed up with Katelyn Amidon, Recruiting Manager at Lyft, in a webinar entitled "[University Recruiting in a Semi-Virtual World: Everything You Need to Know](#)." During the event, Katelyn discussed the lessons Lyft learned as the company navigated its way through this new territory.

Watch our [on-demand webinar](#) for tips on preparing for hybrid university recruiting

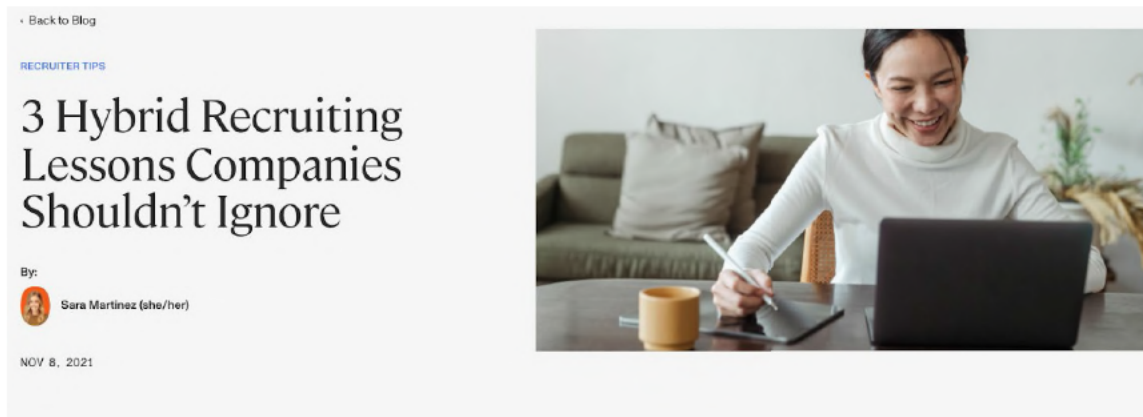
The following are some of the eye-opening observations Katelyn shared.

**Stop setting diversity goals.
Start meeting them.**

Join hundreds of businesses, from startups to Fortune 500 companies, using [Canvas](#) to build diverse teams

[See it in action](#)

As of November 28, 2021



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[See it in action](#)

As of January 20, 2021

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DIVERSITY RECRUITING

Examining The Diversity, Equity and Inclusion Industrial Complex

by  **Canvas** Contributor

OCT 27, 2021



There's no doubt that the [diversity and inclusion](#) profession has grown exponentially in recent years. In fact, last year alone, organizations made commitments to [D&I](#) that totaled \$8 billion. But is all of this investment in D&I actually a good thing?

Not necessarily, according to Vijay Pendakur, Ph.D., Vice President and Chief Diversity, Equity, and Inclusion Officer at Zynga. Vijay discussed the impact of the D&I industrial complex with [Canvas](#) Chief People Officer Tariq Meyers in the latest episode of the "Untapped" podcast—where Tariq has untapped conversations about [diversity, equity, and inclusion](#) with prominent D&I practitioners each week.

Stop setting diversity goals. Start meeting them.

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[See it in action](#)

As of November 8, 2021

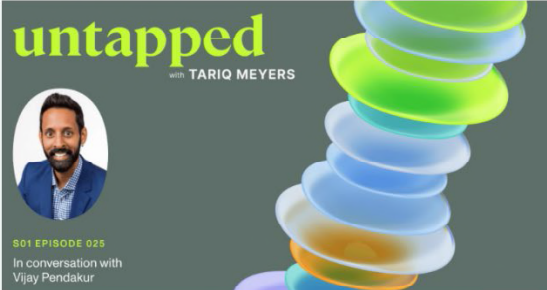
• Back to Blog

DIVERSITY RECRUITING

Examining The Diversity, Equity and Inclusion Industrial Complex

By:  Sara Martinez (she/her)

OCT 27, 2021



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As of January 18, 2021

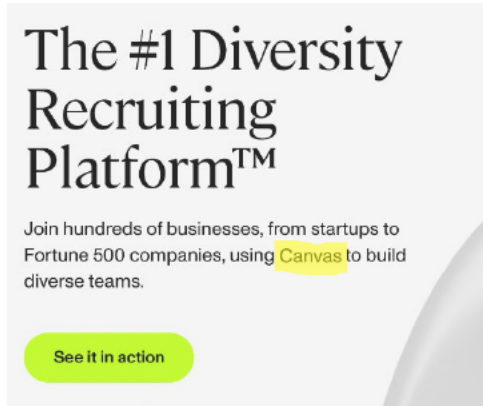
19. [REDACTED]

20. Because we anticipated that securing a new company name would not be immediate, to optimize efficiency, we identified tasks that were dependent on the new company name and logo and those that were not, which we referred to as “pre-work.” For tasks that were dependent on the new name, we “scoped” (i.e., detailed each step and assigned ownership of each step to a team member) those tasks.

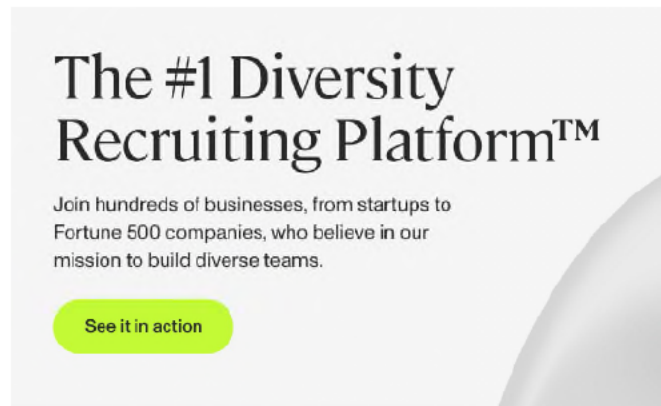
21. For the “pre-work,” we not only “scoped” those tasks but also instructed team members to get started on the “pre-work” immediately while the process for selecting a new company name was still underway. The goal of the “pre-work” is to set up the product (i.e., the diversity recruiting platform) in such a way to expedite the process of changing the product once selection of the new name and domain has been finalized. [REDACTED]

23. [REDACTED]

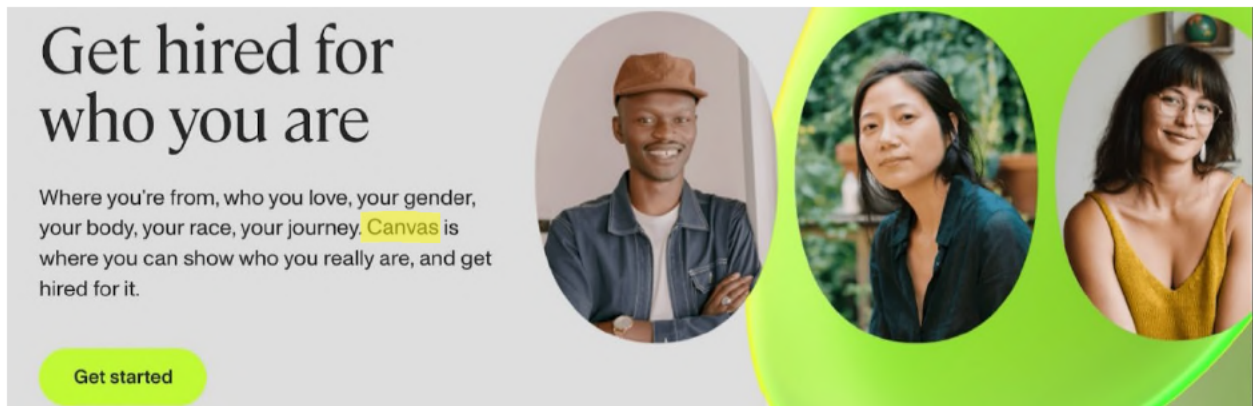
24. By January 25, 2022, we had replaced references to CANVAS with generic language that is not specific to a new company name on our public-facing website as reflected in the below screenshots with “Canvas” highlighted for ease of reference.



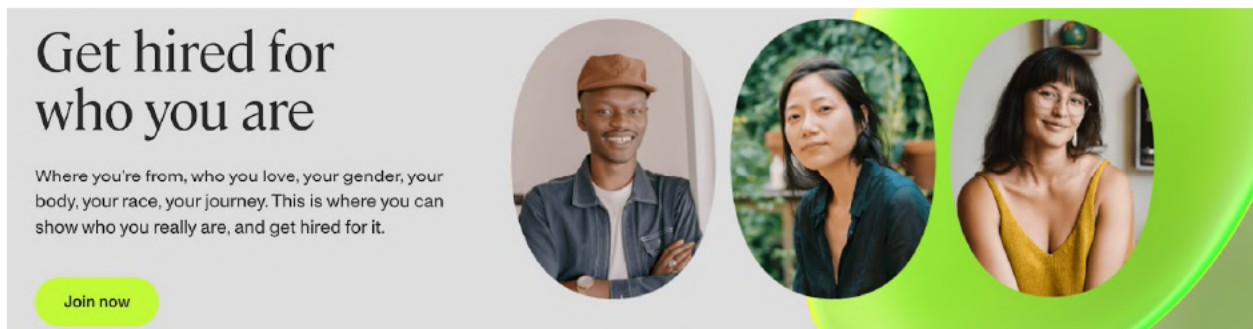
As of August 2021



As of January 25, 2022



As of August 2021



Join the Canvas community

Popular community group	Popular community group	New community group
Women in Tech	Product Design	WFH Strategies
23 September 2020	04 March 2021	05 May 2020
45,567 members	35,354 members	64,254 members

As of August 2021

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Popular community group	Popular community group	New community group
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23 September 2020	04 March 2021	05 May 2020
45,567 members	35,354 members	64,254 members

As of January 25, 2022

Canvas is a team of

Because opportunity can't wait and won't wait.

[Work at Canvas](#)



As of August 2021

We are a team of changemakers.

[Work with us](#)



As of January 25, 2022

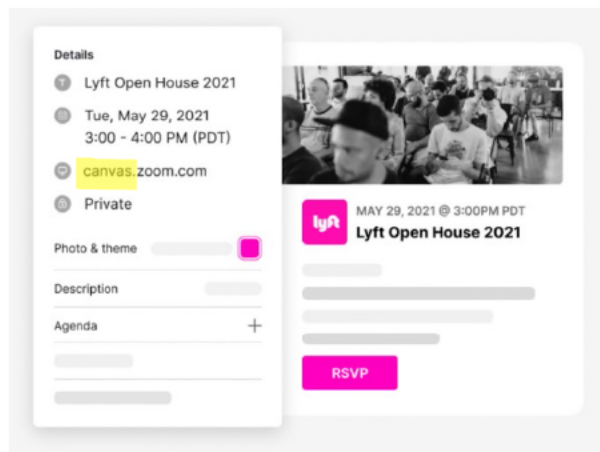
Behind the Canvas

Our team is composed of people from every background and experience. We're MLK Scholars, high school dropouts, former artists, veterans and working parents. We're a passionate team of learners and doers with a bias for action. We encourage each other to remember and exercise our individual "why" in service to our mission.

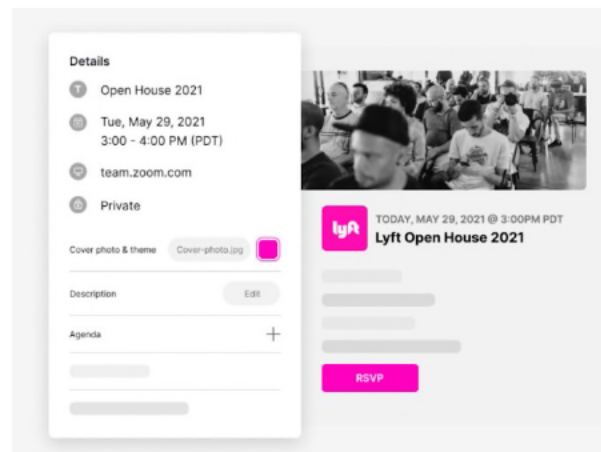
Behind our company

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As of August 2021



As of January 25, 2022



As of August 2021

The Canvas Blog

Get the latest news, diversity and inclusion best practices, hiring tips and more on the Canvas blog.

[CANVAS NEWS](#) [CUSTOMER STORIES](#) [DIVERSITY RECRUITING](#) [PRODUCT](#) [RECRUITER TIPS](#)

As of August 2021

Our Blog

Get the latest news, diversity and inclusion best practices, hiring tips and more on our blog.

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As of January 25, 2022

25. [REDACTED]

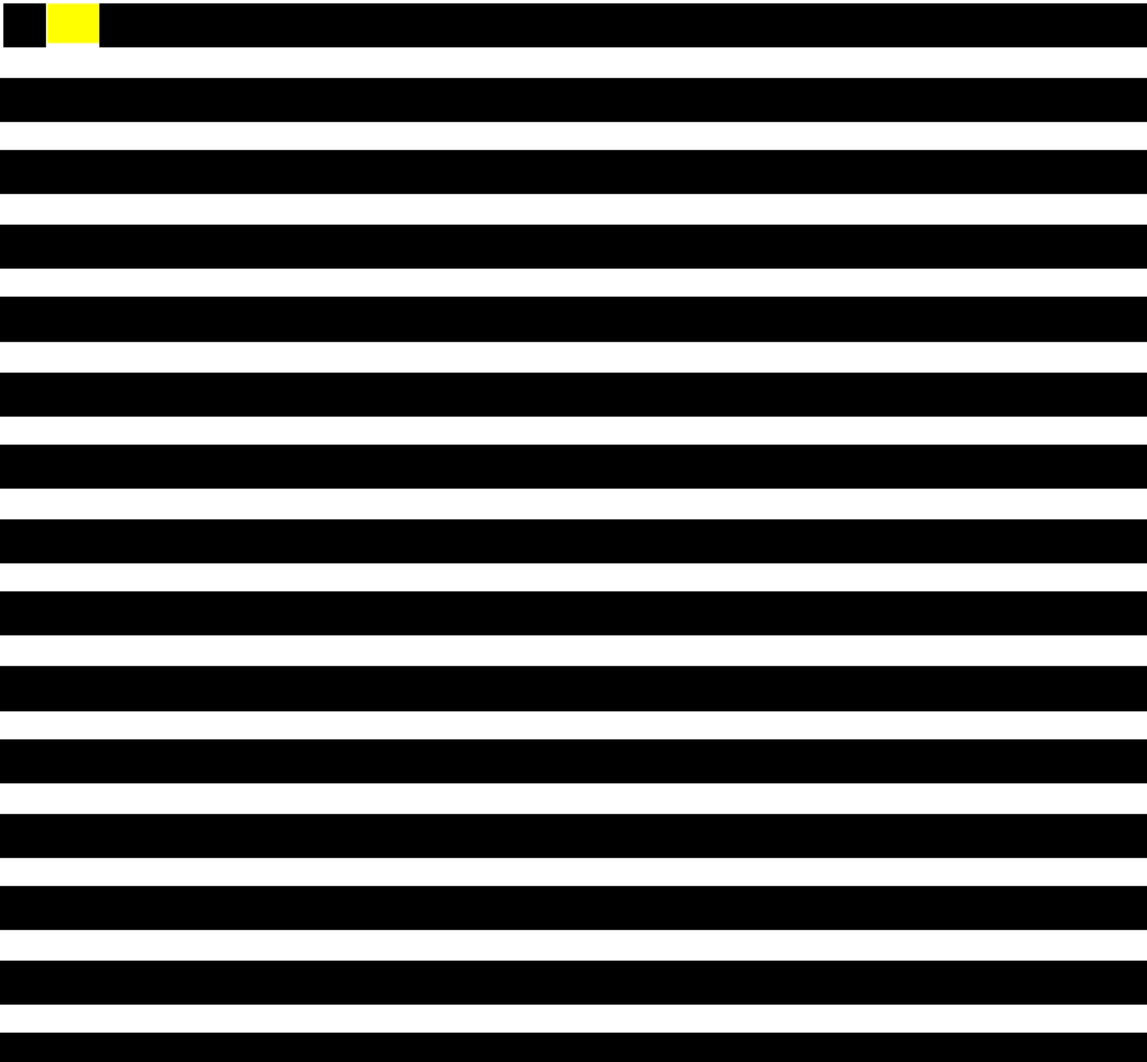
[REDACTED] All the technical work detailed above that we are currently doing would be necessary even if we were to simply revert to Jumpstart. [REDACTED]

[REDACTED] Since we rebranded, we have changed and developed our product for six months. In other words, the capabilities of our current product have advanced such that the product structure is now incomparable to our prior product version when we operated as Jumpstart. Put simply, there is no equivalent of a Jumpstart product to which we can go back for use with our business going forward.

26. From a software development perspective, we often talk in terms of rolling forward and rolling back. What the Court and Instructure is suggesting with respect to using jumpstart.me would be rolling back, something that we try to avoid as it generally requires more work than rolling forward. [REDACTED]

[REDACTED] The dynamic nature of Canvas's product makes rolling back often unfeasible and more work than rolling forward.

27. Further, the Court's suggestion that we can simply stop re-directing the public from jumpstart.me to canvas.com assumes that people are visiting jumpstart.me. [REDACTED]

[illegible]

[REDACTED]

[REDACTED]

29. The very nature of Canvas's product relies on email communication. [REDACTED]

[REDACTED]

[REDACTED] Domain warming is a process in which emails from new domain names are "warmed up" (i.e., familiarized) such that they are not caught in user's spam filters. The domain warming process takes at least 30 days. [REDACTED]

[REDACTED]

[REDACTED]

30. Despite Instructure's characterization otherwise, it has not been business as usual at Canvas in the wake of the Order. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] We have been working diligently every business day and throughout the weekends, including MLK Day, which is an important holiday given our company's mission of diversity, equity, and inclusion, since the Court entered its Order and have expended significant resources, in terms of both time and money, to do all that is possible to comply with the Court's Order and will continue to do so going forward until the process is completed.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: February 4, 2022

Adam Gefkovicz
Adam Gefkovicz (Feb 4, 2022 18:55 EST)
Adam Gefkovicz






2022.02.04 - A. Gefkovicz's Declaration

Final Audit Report

2022-02-04

Created:	2022-02-04
By:	Stephanie Calnan (scalnan@brownrudnick.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAUHLRdm6jmZnse7vRxz2pyxdagE9cWEb5

"2022.02.04 - A. Gefkovicz's Declaration" History

-  Document created by Stephanie Calnan (scalnan@brownrudnick.com)
2022-02-04 - 11:42:00 PM GMT- IP address: 66.28.218.29
-  Document emailed to Adam Gefkovicz (adam@canvas.com) for signature
2022-02-04 - 11:42:32 PM GMT
-  Email viewed by Adam Gefkovicz (adam@canvas.com)
2022-02-04 - 11:54:40 PM GMT- IP address: 66.102.8.9
-  Document e-signed by Adam Gefkovicz (adam@canvas.com)
Signature Date: 2022-02-04 - 11:55:06 PM GMT - Time Source: server- IP address: 67.245.31.33
-  Agreement completed.
2022-02-04 - 11:55:06 PM GMT